

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**SHERRY L. BODNAR, on Behalf of herself
and All Others Similarly Situated,**

Plaintiff,

vs.

BANK OF AMERICA, N.A.,

Defendant.

Case No. 5:14-cv-03224-EGS

**PLAINTIFF’S UNOPPOSED MOTION FOR CERTIFICATION OF A SETTLEMENT
CLASS AND PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiff Sherry Bodnar, by her undersigned counsel, respectfully moves for an Order pursuant to Rule 23(e) of the Federal Rules of Civil Procedure granting preliminary approval of a Settlement Agreement¹ between Plaintiff, individually and as representative of the Settlement Class as defined in the Settlement Agreement, and Defendant Bank of America, N.A. (“Bank of America”).

Pursuant to the Settlement Agreement, Bank of America has agreed, in exchange for the release of claims by Plaintiff and the Settlement Class in this litigation, to provide a non-reversionary Settlement Fund of \$27,500,000. Under the settlement, current and former Bank of America accountholders who incurred relevant Overdraft Fees will receive automatic distributions of pro rata shares of the Net Settlement Fund. Bank of America also agrees to send a supplemental notice to current accountholders describing the debit card processing and overdraft fee policies at issue in this litigation.

¹ All defined terms referenced in this Motion and the accompanying Plaintiff’s Memorandum In Support of Unopposed Motion For Certification of a Settlement Class and Preliminary Approval of Class Action Settlement are the same as those defined in the Settlement Agreement, attached as Exhibit B to the Memorandum.

Pursuant to Fed. R. Civ. P. 23(e), Plaintiff respectfully requests that the Court enter an Order: (a) preliminarily approving the Settlement Agreement; (b) certifying the proposed Settlement Class as defined in the Settlement Agreement; (c) appointing Plaintiff Bodnar as representative of the Settlement Class; (d) appointing current Interim Lead Counsel as counsel for the Class pursuant to Fed. R. Civ. P. 23(g); (e) approving the proposed form and manner of notice to the Settlement Class set forth in the Settlement Agreement; (f) staying these proceedings until such time as the Court renders a final decision regarding the approval of the Class Action Settlement Agreement and, if it approves the Settlement, enters final judgment and dismisses this action with prejudice; and (g) adopting the proposed settlement schedule set forth in the accompanying memorandum of law and [Proposed] Order Certifying a Settlement Class and Preliminarily Approving Class Action Settlement Agreement (filed concurrently), including scheduling a fairness hearing during which the Court will consider: (i) Plaintiff's request for final approval of the settlement and entry of a proposed final approval order and Final Judgment; (ii) Plaintiff's Class Counsel's application for an award of attorney fees and reimbursement of expenses, costs, and a service award to Plaintiff; and (iii) Plaintiff's request for dismissal of this action with prejudice against Bank of America and Releases as defined in the Class Action Settlement Agreement; and (iv) granting such other and further relief as may be appropriate.

This Motion is supported by the Settlement Agreement; Plaintiff's Memorandum of Law in Support of Motion for Preliminary Approval; the Declaration of Hassan Zavareei; all pleadings filed in this case; and such additional evidence or argument as may be presented to the Court. Pursuant to LR 7.1(b), the parties have conferred and Bank of America's counsel has advised Plaintiff's counsel that Defendant does not contest this motion.

WHEREFORE, based on the foregoing, and for the reasons set forth in the accompanying Memorandum of Law, we respectfully urge the Court to grant Plaintiff's Motion, for which a Proposed Order is attached to this document as Exhibit A.

Dated: January 13, 2016

/s/ Hassan Zavareei

Hassan A. Zavareei (*pro hac vice*)

Jeffrey Kaliel (*pro hac vice*)

TYCKO & ZAVAREEI LLP

1828 L Street, N.W., Suite 1000

Washington, D.C. 20036

Telephone: (202) 973-0900

Facsimile: (202) 973-0950

hzavareei@tzlegal.com

jkaliel@tzlegal.com

Interim Lead Class Counsel

Jeffrey M. Ostrow (*pro hac vice*)

KOPELOWITZ OSTROW P.A.

200 S.W. First Avenue, 12th Floor

Fort Lauderdale, FL 33301

Telephone: (954) 525-4100

Facsimile: (954) 525-4300

ostrow@kolawyers.com

James C. Shah

**SHEPHERD, FINKELMAN, MILLER
& SHAH, LLP**

35 E. State Street

Media, PA 19063

Telephone: (610) 891-9880

Facsimile: (610) 891-9883

jshah@sfmslaw.com

Interim Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2016, I filed the foregoing document with the Court's CM ECF filer, thereby causing a true and correct copy to be delivered to all ECF-registered counsel of record.

/s/ Hassan A. Zavareei
Hassan A. Zavareei

FILER'S ATTESTATION

Pursuant to Local Rule 7.1(b), the undersigned attests that all parties have concurred in the filing of this uncontested Motion.

Dated: January 13, 2016

/s/ Hassan A. Zavareei
Hassan A. Zavareei

Counsel for Plaintiff